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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,788	01/11/2002	Donald Espie Hay	LWC-189-107	8388
26875	7590	08/11/2004	EXAMINER	
WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202			COLE, LAURA C	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/044,788	HAY, DONALD ESPIE 
Examiner	Art Unit	
Laura C Cole	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 June 2004.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,4-9 and 11-13 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,4-9 and 11-13 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 11 January 2002 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Objections

1. Claims 1, 4-9, and 11-13 are objected to because of the following informalities:

Claim 1 Lines 4 and 5 use the term “*generally* transverse.” It is unclear as to what is meant by generally.

Claim 1, in Lines 4 and 5, it is stated that the “squeegee blade” is “extending in a *first* direction transverse to the direction in which the handle extends, and generally transverse to the direction in which the bristles extend...” Lines 6-8 state “the squeegee blade...extends laterally in a *second* direction which has a component...” It is confusing in that it seems that the squeegee blade is extending in three directions (not a “first” and “second” as claimed), transverse to the direction of the handle, transverse to the direction of the bristles, and laterally in a direction that has a component in a direction opposite to the direction that the bristles extend.

Claim 9 Line 2, it is unclear as to what is meant by “...*generally* in the shape of a spatula...”

Claim 13 Line 3, it is unclear as to what is meant by “...*generally* parallel to the first direction...”

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4-5, 7-9, and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoagland, USPN D361,894 in view of Tupper, USPN 2,900,656.

Hoagland discloses the claimed invention including a kitchen cleaning element comprising a body from which extends an elongate handle (see Figures), a plurality of bristles depending from the underside of the body (see Figure 1, bristles are in the "hatched" area), an elongate squeegee blade (see all Figures, especially Figure 2 wherein the rectangle is the top of the blade) arranged on the body extending in a direction that is transverse to the direction that the handle extends (Figure 1, 3, and 4) and transverse to the direction to which the bristles extend (see Figures). The blade is arranged at an opposite end of the body to the handle (see Figures). The blade extends laterally in a direction that has a component in a direction opposite to which the bristles extend (see Figures). The squeegee blade curves upwardly away from the body (Figures 3 and 4). The squeegee blade has a width that is comparable to a width of the body (see Figures). The body includes a protruding lip with the squeegee blade molded onto the lip (see minor protrusion on the body attached to the lip in Figure 4). The body is generally in the shape of a spatula with the bristles extending from a lower side thereof (see Figures). The squeegee blade has a substantially uniform lateral width (see Figures.) The squeegee blade is joined to

the body along a line substantially perpendicular to the first direction (see Figures). Each bristle includes a distal end distant from the body, wherein the distal ends are arranged substantially in a flat plane *generally* parallel to the first direction (see Figures). Hoagland does teach or suggest that the blade is formed of a resiliently flexible material.

Tupper discloses a cleaning, scraping, and mixing implement wherein the blade is comprised of a plastic and resilient material so that the scraper will not subject the object to breaking, scratching, or fractures, so that the grip on the handle will not result in undue pressure, and that allows a local deformability with resiliency (see Column 1 Lines 34-43, 60-68).

It would have been obvious for one of ordinary skill in the art to modify the blade of Hoagland to be formed of a flexible, resilient material, as Tupper teaches, so that the blade edge may deform in such a way to conform to the shape of the surface that is being cleaned or scraped without the user's grip having undue pressure.

3. Claims 1, 4-5, 7, 9, and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowe et al., USPN D459,088 in view of Tupper, USPN 2,900,656.

Rowe et al. disclose the claimed invention including a cleaning element comprising a body from which extends an elongate handle (see Figures), a plurality of bristles depending from the underside of the body (see Figure 2), an elongate squeegee blade (see Figures 1-2) arranged on the body extending in a direction that is transverse to the direction that the handle extends (Figures 1 and

2) and transverse to the direction to which the bristles extend (see Figures). The blade is arranged at an opposite end of the body to the handle (see Figures). The blade extends laterally in a direction that has a component in a direction opposite to which the bristles extend (see Figures). The squeegee blade curves upwardly away from the body (Figures 1 and 2). The squeegee blade has a width that is comparable to a width of the body (see Figures). The body is generally in the shape of a spatula with the bristles extending from a lower side thereof (see Figures). The squeegee blade has a *substantially* uniform lateral width (see Figures.) The squeegee blade is joined to the body along a line substantially perpendicular to the first direction (see Figures). Each bristle includes a distal end distant from the body, wherein the distal ends are arranged substantially in a flat plane *generally* parallel to the first direction (see Figures). Rowe et al. does teach or suggest that the blade is formed of a resiliently flexible material.

Tupper discloses a cleaning, scraping, and mixing implement wherein the blade is comprised of a plastic and resilient material so that the scraper will not subject the object to breaking, scratching, or fractures, so that the grip on the handle will not result in undue pressure, and that allows a local deformability with resiliency (see Column 1 Lines 34-43, 60-68).

It would have been obvious for one of ordinary skill in the art to modify the blade of Rowe et al. to be formed of a flexible, resilient material, as Tupper teaches, so that the blade edge may deform in such a way to conform to the

shape of the surface that is being cleaned or scraped without the user's grip having undue pressure.

4. Claims 1, 4-5, 7-9, and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoagland, USPN 5,317,779 in view of Tupper, USPN 2,900,656.

Hoagland discloses the claimed invention including a kitchen cleaning element comprising a body from which extends an elongate handle (10), a plurality of bristles depending from the underside of the body (9), an elongate squeegee blade (18) arranged on the body extending in a direction that is transverse to the direction that the handle extends (Figures 1- 3) and transverse to the direction to which the bristles extend (see Figures). The blade is arranged at an opposite end of the body to the handle (see Figures 1 and 3). The blade extends laterally in a direction that has a component in a direction opposite to which the bristles extend (see Figures). The squeegee blade curves upwardly away from the body (Figure 3). The squeegee blade has a width that is comparable to a width of the body (see Figures). The body includes a protruding lip with the squeegee blade molded onto the lip (see minor protrusion on the body attached to the lip in Figure 3). The body is generally in the shape of a spatula with the bristles extending from a lower side thereof (see Figures). The squeegee blade has a *substantially* uniform lateral width (see Figures.) The squeegee blade is joined to the body along a line substantially perpendicular to the first direction (see Figures). Each bristle includes a distal end distant from the body, wherein the distal ends are arranged substantially in a flat plane

generally parallel to the first direction (see Figures). Hoagland does teach or suggest that the blade is formed of a resiliently flexible material, although in Column 4 Lines 43-46 it is stated that the device is preferably molded as a single, integral, and one-piece structure.

Tupper discloses a cleaning, scraping, and mixing implement wherein the blade is comprised of a plastic and resilient material so that the scraper will not subject the object to breaking, scratching, or fractures, so that the grip on the handle will not result in undue pressure, and that allows a local deformability with resiliency (see Column 1 Lines 34-43, 60-68).

It would have been obvious for one of ordinary skill in the art to modify the blade of Hoagland to be formed of a flexible, resilient material, as Tupper teaches, so that the blade edge may deform in such a way to conform to the shape of the surface that is being cleaned or scraped without the user's grip having undue pressure.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoagland, USPN 5,317,779 in view of Tupper, USPN 2,900,656, and in further view of Vrignaud, USPN 5,934,762.

Hoagland and Tupper disclose all elements above, including a squeegee blade that is molded (Column 4 Lines 43-46).

Vrignaud discloses a method for manufacturing a brush with multi-heads. Vrignaud includes the process of overmolding, molding individual parts, and then molding the portion a second time with additional elastomer material to create a flexible securement (Column 2 Lines 41-63).

It would have been obvious for one of ordinary skill in the art to manufacture the squeegee blade and block of Hoagland and Tupper by overmolding, such as Vrignaud teaches, as an alternative means to molding the device integrally so that the connection between blade and body will remain especially rigid with a flexible "lip" or hinged connection.

Applicants Arguments

6. In the response filed 29 June 2004, the Applicant contends that:
 - A. The design patent to Hoagland is silent as to the construction of the scraper blade.
 - B. Hoagland does not appear to include a protruding lip with the squeegee blade molded onto said lip.
 - C. Rowe et al. fail to disclose that their brush includes a squeegee blade formed of a resiliently flexible material.
 - D. Sendoykas et al. do not disclose a squeegee blade extending transverse to the bristles.
 - E. Lewis does not disclose a cleaning implement having a squeegee blade that is "arranged at an opposite end of the body to the handle."
 - F. Lewis does not include that extends laterally in a direction opposite the direction of the bristles.
 - G. Brinker et al. do not disclose a squeegee blade extending transverse to the bristles.
 - H. Lambert does not include a component that is opposite the extension direction of the bristles.

I. Vrignaud does not disclose a squeegee blade and, therefore, also does not disclose a squeegee blade arranged at an opposite end of the body to the handle or extends in a particular direction.

Response to Arguments

7. Applicant's arguments **A-C**, see the response, filed 29 June 2004, with respect to the rejection(s) of claim(s) 1-4 and 7-9 under 35 USC 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Tupper, USPN 2,900,656 that teaches a scraper device that comprises a blade constructed from a plastic, resilient, and flexible material.

8. Applicant's arguments **D-H**, see the response, filed 29 June 2004, with respect to Sendoykas et al., Lewis, Brinker et al., and Lambert have been fully considered and are persuasive. The rejections made under 35 USC 102(b) to Sendoykas et al., Lewis, Brinker et al., and Lambert has been withdrawn.

9. Applicant's argument **I** filed 29 June 2004 has been fully considered but is not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941

(Fed. Cir. 1992). In this case, the device of Hoagland and Tupper do not include molding the device by overmolding, however Hoagland teaches that the device may be molded. It would have been obvious for one of ordinary skill in the art to manufacture the squeegee blade and block of Hoagland and Tupper by overmolding, such as Vrignaud teaches, as an alternative means to molding the device integrally so that the connection between blade and body will remain especially rigid with a flexible "lip" or hinged connection.

Furthermore, "over-molded" is a process and the molded device of Hoagland and Tupper results in the same finished product regardless of the molding process, in that the blade is integral to the body. "[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). See MPEP 2113.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C Cole whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LCC

04 August 2004

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